



FH

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

SSP/169762

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed October 27, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to State Supplemental SSI benefits, a hearing was held on November 23, 2015, at Madison, Wisconsin.

The issue for determination is whether the Department correctly discontinued the petitioner's State Supplemental SSI payments effective November 1, 2015, because he was no longer eligible for federal SSI as of September 13, 2015.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

Representative:

[REDACTED], case manager  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED], State SSI analyst  
Division of Health Care Access and Accountability  
P.O. Box 6680  
Madison, WI 53716-0680

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner is a 51 year old resident of Dane County who received State SSI benefits.
2. The Department sent an October 19, 2015 notice to the petitioner that his State SSI would discontinue effective November 1, 2015, due to his Federal SSI ending as of September 13, 2015.
3. State SSI analyst, [REDACTED], sent a letter notice to the petitioner stating that his State Supplemental SSI benefits (State SSI) would discontinue effective November 1, 2015, due to Social Security placing the petitioner in a non-payment status code of N01 (Member's countable income exceeds Title XVI FBR) for the time period October 2015 and continuing for cash payments. However, petitioner continues to receive Medicaid under a special rule for people whose earnings from work cause them to lose cash benefits under SSI (rule 1619(b) Medicaid). See Exhibit 1.

### DISCUSSION

Effective January 1, 1996, the State of Wisconsin began sending out its State Supplemental SSI payments separately from federal SSI payments (they had previously been sent out as one check by the Social Security Administration). The state statute that lists the eligibility criteria for State Supplemental SSI payments reads as follows:

**49.77 State supplemental payments.**

...

**(2) ELIGIBILITY.** (a) *The following persons who meet the resource limitations and the nonfinancial eligibility requirements of the federal supplemental security income program under 42 USC 1381 to 1383d are entitled to receive supplemental payments under this section:*

2. Any needy person or couple residing in this state **and receiving benefits under federal Title XVI.**
3. Any needy person or couple residing in this state whose income ... is less than the combined benefit level available under federal Title XVI and this section, if at least one of the following requirements are met:
  - a. The person or couple was eligible for a state supplement under this section based on the last federal eligibility determination prior to January 1, 1996, but was not eligible to receive a payment under federal Title XVI on that date.
4. Any essential person.

Wis. Stat. § 49.77(2). The State sought discontinuance of the State Supplemental benefit because petitioner did not meet the financial eligibility requirements of the federal SSI (*i.e.*, Title XVI) program as of September 13, 2015, due to countable income exceeding Title XVI FBR, based upon information provided by the SSA.

If the petitioner is financially and non-financially eligible for federal SSI, he is also financially and non-financially eligible for State Supplemental SSI. Because petitioner did not establish with any documentation at hearing that he was financially eligible for federal SSI as of September 13, 2015, the

Department correctly discontinued the petitioner's State Supplemental SSI payments effective November 1, 2015, because he was no longer eligible for federal SSI as of September 13, 2015.

### **CONCLUSIONS OF LAW**

The Department correctly discontinued the petitioner's State Supplemental SSI payments effective November 1, 2015, because he was no longer eligible for federal SSI as of September 13, 2015.

**THEREFORE, it is**

### **ORDERED**

The petition for review herein be and the same is hereby Dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 24th day of November, 2015

---

\sGary M. Wolkstein  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 24, 2015.

Division of Health Care Access and Accountability  
State SSI